

REMARKS

Reconsideration of the present application in view of the remarks below is respectfully requested.

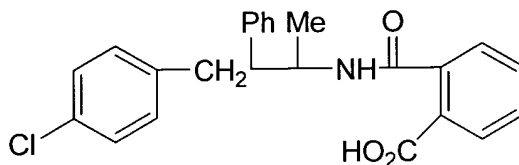
Claims 1-24 were pending in this application. Claims 1 to 7 and 9 to 17 were rejected, Claim 8 was allowed, and Claims 18 to 24 were objected to by the Examiner in the office action issued February 16, 2006. Currently, Claims 1 to 24 are pending in the present application.

Claim Rejections – 35 USC §102

Claims 1-7 and 9-17 were rejected under 35 USC § 102(b), over RN 95958-63-7, which the Examiner stated anticipated the present invention when R¹ was phenyl substituted with chloro, R² was phenyl, R⁶ was H, R³ was methyl, and Ar¹ was phenyl substituted with carboxylic acid. The Examiner stated that since the compound could be in water (being carboxylic acid and amide derivative), and water was a well-known pharmaceutical carrier, the composition was anticipated as well. Still further, the Examiner objected to Claims 18-24 as being dependent on rejected base claims.

Applicants respectfully traverse the rejection of Claims 1-7 and 9-17 under 35 USC § 102(b), over RN 95958-63-7, and the objection to Claims 18-24 as being dependent on a rejected base claim.

RN95958-63-7 discloses the compound below:



RN 95958-63-7

which corresponds to a compound of the present invention where R¹ is *para*-chlorophenyl, R² is unsubstituted phenyl, R³ is methyl and Ar¹ is *ortho*-CO₂H monosubstituted phenyl. Independent Claims 1 and 9, contain the following proviso (which was present in Claims 1-9 as filed and in the specification at page 22, lines 18-22):

...provided that when **R¹** is selected from the group consisting of unsubstituted phenyl, ***para*-chlorophenyl** or ***para*-methoxy phenyl**, **R² is unsubstituted phenyl**, and **R³ is -CH₃**, then **Ar¹ is not unsubstituted phenyl, *ortho*-CO₂H monosubstituted phenyl, or 3,4-dimethoxy phenyl**.

(bold text added for emphasis). Thus, base Claims 1 and 9, as well as dependent rejected Claims 2-7 and 10-17 do not read on the cited art and are not anticipated by RN 95958-63-7.

Still further, there is nothing in RN 95958-63-7 to motivate one of ordinary skill in the art to modify the compound therein to obtain the compounds claimed in the present application.

Applicants further submit that Claims 16 and 17 are not anticipated by RN95958-63-7. RN 95958-63-7 does not teach to form a composition of the claimed compounds of the present invention. RN95958-63-7 does not teach combining the disclosed compound with any substance.

Applicants submit that Claims 1-7 and 9-17 are allowable, and request withdrawal of the objection to Claims 18-24 for being dependent on a rejected base claim.

In view of the remarks above, Applicants respectfully request reconsideration and withdrawal of the rejection of Claims 1-7 and 9-17 under 35 USC § 102(b), over RN 95958-63-7. Applicants further request reconsideration and withdrawal of the objection to Claims 18-24 as being dependent upon a rejected base claim.

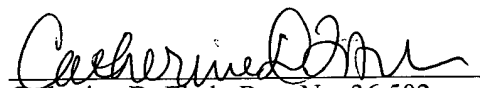
Finality of Rejection

The Examiner rendered the present rejection final, stating that Applicants' amendment necessitated the new ground(s) of rejection presented in this Office Action. On March 22, 2006, Applicants petitioned the Director under 37 CFR 1.181(a) to remove the finality of the present rejection, which Applicants view as premature and not "necessitated" by the amendments made in response to the first Office Action.

Applicants respectfully request reconsideration and withdrawal of the rejection and earnestly solicit a favorable response from the Examiner. The Examiner is invited to contact Applicants' representative at the number below, if such contact would facilitate prosecution of this application to allowance.

Respectfully submitted,

By


Catherine D. Fitch, Reg. No. 36,502
Attorney for Applicants

MERCK & CO., Inc.
P.O. Box 2000
Rahway, New Jersey 07065-0907
Tel: (732)594-4283

March 27, 2006